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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

LIFT INTERNATIONAL, LLC, also doing business as LIFT INTERNATIONAL ENTERPRISES, LLC, GUIDANCE INTERACTIVE, AND GOGO DROPSHIP, a Delaware limited liability company,

PROFESSIONAL LEARNING INSTITUTE, LLC, a Washington limited liability company,

FUTURE EDUCATION, LLC, also doing business as PINNACLE LEARNING INSTITUTE and PINNACLE GROUP, a Hawaii limited liability company,

GROWTH STRATEGY SOLUTIONS, LLC, also doing business as ADVANTAGE EDUCATION, DISCOVER EDUCATION, and ENTERPRISE

Case No. 2:17-cv-00506-RJS

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

EDUCATION, a Utah limited liability company, and GROWTH STRATEGY SOLUTIONS, INC. as a successor corporation,

ADVANTAGE EDUCATION, LLC, a Utah limited liability company,

DISCOVER EDUCATION, LLC, an Idaho limited liability company,

ENTERPRISE EDUCATION, INC., also doing business as ADVANTAGE EDUCATION, a Utah corporation,

ARI MONKARSH, individually and as an officer and owner of LIFT INTERNATIONAL, LLC,

FARAZ ROUHANI, individually and as an owner of PROFESSIONAL LEARNING INSTITUTE, LLC AND FUTURE EDUCATION, LLC,

TRAVIS THOMAS, individually and as an owner of PROFESSIONAL LEARNING INSTITUTE, LLC AND FUTURE EDUCATION, LLC,

NATHAN BEESON, individually and as an owner of GROWTH STRATEGY SOLUTIONS, LLC, ADVANTAGE EDUCATION, LLC, DISCOVER EDUCATION, LLC, and ENTERPRISE EDUCATION, INC., and

KENNETH DICKINSON, individually and as an owner of GROWTH STRATEGY SOLUTIONS, LLC, ADVANTAGE EDUCATION, LLC, DISCOVER EDUCATION, LLC, and ENTERPRISE EDUCATION, INC.,

Defendants.

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Sections 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's trade regulation rule entitled Telemarketing Sales Rule ("TSR" or "Rule"), 16 C.F.R. Part 310.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 6102(c), and 6105(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the Telemarketing Act. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the Telemarketing Act, and to secure such

equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A)-(B), and 6105(b).

DEFENDANTS

6. Defendant Lift International, LLC ("Guidance"), also doing business as Lift International Enterprises, LLC, Guidance Interactive, and GoGo Dropship, is a closely held Delaware limited liability company with its principal place of business at 12260 South 630 East, Suite 450, American Fork, Utah 84003 and formerly located at 512 West 800 North, Orem, Utah 84057. Guidance transacts or has transacted business in this district and throughout the United States.

7. Defendant Professional Learning Institute, LLC ("PLI") is a Washington limited liability company with its principal place of business at 12100 NE 195th Street, Suite 315, Bothell, Washington 98011. PLI transacts or has transacted business in this district and throughout the United States.

8. Defendant Future Education, LLC ("Pinnacle"), also doing business as Pinnacle Learning Institute and Pinnacle Group, is a Hawaii limited liability company with its principal place of business at 720 S 333rd Street, Suite 100, Federal Way, Washington 98003. Pinnacle transacts or has transacted business in this district and throughout the United States.

9. Defendants PLI and Pinnacle (collectively, the "PLI Sales Floor") are closely held companies that have operated and functioned as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged in this Complaint. They have conducted the business practices discussed below as an interrelated network of companies that

have common ownership, officers, members, managers, and customer databases. Also, they rely on a shared method to identify potential customers through lead referrals, employ a common telemarketing staff, bill customers through a common billing department, and handle customer service through a common customer service staff. Because they have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices described of the enterprise in this Complaint.

10. Defendant Growth Strategy Solutions, Inc., formerly known as Growth Strategy Solutions, LLC, also doing business as Advantage Education, Discover Education, and Enterprise Education, is a Utah corporation with its principal place of business at 3300 N Running Creek Way, Suite G200, Lehi, Utah 84043, and formerly located at the following locations: 65 East Wadsworth Park Drive, Draper, Utah 84020; 901 E Pier View Drive, Suite 207, Idaho Falls, Idaho 83402; and 101 Park Avenue, Suite 201, Idaho Falls, Idaho 83402. In December 2013, Growth Strategy Solutions, LLC converted to Growth Strategy Solutions, Inc. (Growth Strategy Solutions, LLC and its successor Growth Strategy Solutions, Inc. are collectively referred to herein as "Growth Strategy Solutions"). Growth Strategy Solutions transacts or has transacted business in this district and throughout the United States.

11. Defendant Advantage Education, LLC is a Utah limited liability company with its principal place of business at 3300 N Running Creek Way, Suite G200, Lehi, Utah 84043, and formerly located at 65 East Wadsworth Park Drive, Draper, Utah 84020. Advantage Education, LLC transacts or has transacted business in this district and throughout the United States.

12. Defendant Discover Education, LLC is an Idaho limited liability company with its principal place of business at 101 Park Avenue, Suite 201, Idaho Falls, Idaho 83402, and

formerly located at 901 E Pier View Drive, Suite 207, Idaho Falls, Idaho 83402. Discover Education, LLC transacts or has transacted business in this district and throughout the United States.

13. Defendant Enterprise Education, Inc., also doing business as Advantage Education ("Enterprise Education"), is a Utah corporation with its principal place of business at 3300 N Running Creek Way, Suite G200, Lehi, Utah 84043, and formerly located at the following locations: 65 East Wadsworth Park Drive, Draper, Utah 84020; 901 E Pier View Drive, Suite 207, Idaho Falls, Idaho 83402; and 101 Park Avenue, Suite 201, Idaho Falls, Idaho 83402. Defendant Enterprise transacts or has transacted business in this district and throughout the United States.

14. Defendants Growth Strategy Solutions, Advantage Education, LLC, Discover Education, LLC, and Enterprise Education (collectively, the "Discover Sales Floor") are closely held companies that have operated and functioned as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged in this Complaint. They have conducted the business practices below as an interrelated network of companies that have common ownership, officers, members, managers, and customer databases. Also, they rely on a shared method to identify potential customers through lead referrals, employ a common telemarketing staff, bill customers through a common billing department, and handle customer service through a common customer service staff. Because they have operated as a common enterprise, each of them is jointly and severally liable for their acts and practices described of the enterprise in this Complaint.

15. Defendant Ari Monkarsh ("Monkarsh") is a resident of Highland, Utah. He is an owner and Chief Executive Officer of Guidance. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Monkarsh, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

16. Defendant Faraz Rouhani ("Rouhani") is a resident of Bothell, Washington. He is Chief Executive Officer of PLI and one of the principal owners of PLI and Pinnacle. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Rouhani, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

17. Defendant Travis Thomas ("Thomas") is a resident of Bothell, Washington. He is the President of PLI and one of the principal owners of PLI and Pinnacle. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Thomas, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

18. Defendant Nathan Beeson ("Beeson") is a resident of Lehi, Utah. He is an owner and officer of Growth Strategy Solutions, Advantage Education, LLC, Discover Education, LLC, and Enterprise Education. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the

acts and practices set forth in this Complaint. Defendant Beeson, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

19. Defendant Kenneth Dickinson ("Dickinson") is a resident of Draper, Utah. He is an owner and officer of Growth Strategy Solutions, LLC, Advantage Education, LLC, Discover Education, LLC, and Enterprise Education. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Dickinson, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

COMMERCE

20. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITY

Overview of the Deceptive Telemarketing Scheme

21. Since August 2013, Guidance has sold purported personalized business coaching services and related products and services (the "Business Coaching Program") to consumers trying to start a home-based Internet business. Guidance marketed its products and services through telemarketing calls.

22. Guidance engaged numerous telemarketing sales floors ("Sales Floors") to market and sell the Business Coaching Program. Among the Sales Floors that Guidance engaged are the Discover Sales Floor and the PLI Sales Floor.

23. The Sales Floors have used a variety of deceptive sales tactics described herein to induce consumers to purchase the Business Coaching Program. Consumers typically paid thousands of dollars – most of it charged on their credit cards – for the Business Coaching Program based on false promises that these services would enable consumers to start their own successful Internet business.

24. Guidance sold the Sales Floors "leads" (contact information for potential customers to call) and then provided the coaching and related services sold by the Sales Floors. The Sales Floors split the sale proceeds with Guidance.

25. The Sales Floors typically did not disclose to consumers that Guidance provided the actual coaching services they were selling. When communicating to consumers while providing the coaching services, Guidance employees typically represented that they were associated with the Sales Floor or used a generic brand name like "Focus" or "Mentor Group." Thus, consumers typically are not even aware that Guidance provided the purported coaching services they purchased.

26. Guidance provided the Sales Floors with marketing materials that describe the Business Coaching Program to include individualized training from "experienced instructors" with access to a "curriculum" consisting of online video tutorials and webinars about eBay, affiliate marketing, dropshipping, and building a website.

27. Guidance also provided the Sales Floors with testimonials of people purportedly having success and making money from the Business Coaching Program. The Sales Floors placed these testimonials on their own websites and referred to these success stories in their sales calls. In fact, the PLI Sales Floor and the Discover Sales Floor have the same testimonial video titled "Real Success Real People" on their websites, plimembers.com and discover-edu.com. The video includes the following testimonials:

> a. And $5,100 in sales, which is phenomenal. We have done almost, you look at $1,000 a month since we have been running, which is great . . . especially when you don't know anything.
>
> b. Gross sales since inception, a little over $7,300.
>
> c. I've grossed over $12,000 last month alone. Everything gets better all the time. I've got a whole stack of orders over here to prove it. Right behind me, this laptop, I bought this to start my online business. Before that I never owned a computer, I never even touched a computer.

28. After consumers purchased the Business Coaching Program, Guidance continued to target them for additional telemarketing calls designed to induce additional sales. During these upsells, Guidance offered to sell consumers a host of additional products and services through other telemarketing entities they engaged, including entity setup, drop shipping, and marketing services.

29. Most consumers who purchased services from Guidance did not develop a successful online business as promised, earned little or no money, and ended up heavily in debt. Thousands of consumers have lost millions as a result of this deceptive telemarketing scheme.

Guidance's Practices

30. Monkarsh helped form Guidance in June 2013. Guidance acquired Thrive Learning, LLC ("Thrive") in August 2013. Monkarsh is a signatory on multiple bank accounts used by Guidance.

31. Guidance entered into agreements with Sales Floors to sell its Business Coaching Program, which included its coaching services and related "add-on" products and services. These "add-on" products and services included a monthly membership to access online materials and webinars as well as various eBay and website software packages.

32. Guidance provided the Sales Floors with retail prices that the Sales Floors were to charge consumers for different coaching services and "add on" products as part of the Business Coaching Program. The variety of products and services available enabled the Sales Floors to assemble packages at a wide range of price points, and in turn, charge consumers varying amounts based on what available credit or savings the consumer had, ranging from several thousand dollars to over ten thousand dollars, to participate in the Business Coaching Program.

33. Guidance priced its coaching based on the number of weeks of service. For example, in 2013, Guidance provided coaching packages with retail prices that ranged from a 4-week package for $1,600 to a 20-week package for $8,000. The wholesale price was 10%, which in this example meant that the Sales Floor paid Guidance $40 for each week of coaching. Thus, the Sales Floors charged consumers $8,000 for a 20-week coaching program and paid Guidance $800 to provide the coaching services for the Business Coaching Program.

34. Guidance also sold customer leads to the Sales Floors. Guidance purchased the leads from entities that marketed work-at-home or online business opportunities over the

Internet. Many of these lead generators touted a purportedly lucrative work-at-home program that usually cost $97 dollars or less.

35. In May 2014, Guidance arranged for an intermediary company, Motek Enterprises, Inc. ("Motek"), to continue its lead brokering arrangement for the Sales Floors. Motek is wholly-owned and run by Monkarsh's college friend.

36. After being approached by Monkarsh to broker leads, Motek's owner opened a bank account for Motek in May 2014. In May and June 2014, Guidance provided over $900,000 dollars to Motek to fund the lead purchases for the Sales Floors.

37. Guidance also provided Motek with the list of lead sources from which to buy leads and the list of Sales Floors to which to sell the leads. Monkarsh instructed Motek's owner on how many leads each Sales Floor orders every week.

38. The PLI Sales Floor and the Discover Sales Floor were Motek's two largest lead buyers.

39. The Sales Floors then made outbound calls to consumers identified as leads to sell Guidance's business coaching services for thousands of dollars. Once consumers purchased the Business Coaching Program, Guidance sent consumers emails and videos that included representations that consumers would receive personalized advanced training that would enable them to build a successful online business.

40. For example, Guidance sent consumers a "Welcome Call" email from a generic email address, scheduling@coachwebmail.com, that touted "we will provide you with access to the most advanced training and tools to aid your success," followed by instructions on how to

access its "exclusive Elibrary," and then stating "we look forward to work hand in hand in building your successful online business."

41. In at least 2013, Guidance also provided consumers a CD that contained a "New Member Orientation" video, which included the following representations:

> a. One of the most important things that your coach is going to do on that [welcome] call is find out where you are at right now, what your personal goals are with regards to your coaching program, what specific niche you are interested in, for example, if its ebay, or if its affiliate marketing, or setting up your own ecommerce website . . . and then they are really going to be able to, at that point, work with you to setup a plan of how to move forward . . . and how to really, honestly, get you making money as quickly as possible, because that is the whole goal behind the coaching program.
>
> b. We really will work with you step by step, we have our ebay professionals who are going to walk you through that process, help you start making money on ebay and become successful with ebay.
>
> c. I've been online now almost 10 years, and when I first got started, I was nervous, I was scared, I was skeptical, things that you're probably feeling right now . . . but guess what, I listened to my coaches, I followed through with what they told me to do and today I can say that because of that help . . . and being willing to do the work they told me I needed to do, I have a very comfortable lifestyle because of what I have been able to do on the Internet.

42. While the consumers were enrolled in the Business Coaching Program, Guidance provided their customer contact information to other telemarketers to call these consumers to "upsell" additional products and services. These "upsell" telemarketers usually charged consumers thousands of dollars more and remitted a portion of their sales back to Guidance and the Sales Floors. Guidance received up to 35% or 40% of the amounts charged to the consumers.

43. Guidance coordinated the upsells. For example, Guidance typically arranged for telemarketers selling entity setup services, business planning, bookkeeping, tax planning, and

other similar services to call the consumers during the third week of the coaching program. These calls were usually the first upsell attempt to consumers who had purchased business coaching services from Guidance.

44. Guidance continued to target consumers with more upsells later in its coaching program. For example, after the initial upsell at three weeks into the program, Guidance typically arranged for telemarketers to call consumers again in order to sell website building packages and marketing services.

45. One of the primary telemarketers that received upsell leads from Guidance was a group of entities doing business as, among other names, Reliable Business Consultants, which was sued by the FTC in January 2016 for engaging in deceptive telemarketing practices. *See FTC v. Top Shelf Marketing Corp., et al.*, No. 16-cv-206-JSR (S.D.N.Y. filed Jan. 12, 2016). Monkarsh met with principals at Reliable Business Consultants in New York to establish the upsell relationship with Guidance.

Sales Floors

46. Guidance engaged multiple Sales Floors to initiate telephone calls to consumers throughout the United States to induce sales of the Business Coaching Program.

47. The Sales Floors typically operate under various DBA names.

48. Two of the primary Sales Floors currently selling the Business Coaching Program for Guidance are the Discover Sales Floor and the PLI Sales Floor.

49. The Discover Sales Floor began operating in 2011. Beeson and Dickerson each have a 50% ownership interest and manage its operations. Beeson and Dickerson formulated its sales practices and were involved in creating sales scripts to guide the sales representatives

during telemarketing calls. The sales scripts used by the Discover Sales Floor were largely based on scripts taken from other telemarketing sales floors.

50. From August 2011 and continuing through the commencement of this action, the Discover Sales Floor has marketed the Business Coaching Program for Thrive and then Guidance.

51. Since August 2013, the Discover Sales Floor has obtained most of its leads used for its telemarketing activities from Guidance, directly and indirectly though Motek.

52. The Discover Sales Floor incurred excessive chargeback rates indicative of fraudulent or deceptive practices. For example, from September 2011 through April 2016, the Discover Sales Floor had a chargeback rate of over 7% of its sales processed through its primary merchant account. A number of chargeback requests came from consumers reporting that sales were fraudulent or services were not provided as described. In January 2014, Discover Financial Services, Inc. (one of the credit card associations) terminated a different Discover Sales Floor merchant account for excessive chargebacks.

53. Guidance assisted the Discover Sales Floor in responding to chargebacks as they occurred by, among other things, providing documents that purport to show consumers using the coaching services.

54. The PLI Sales Floor began operating in 2012. Rouhani and Thomas are the principal owners and manage its operations. They meet periodically with the PLI Sales Floor's sales managers and customer service manager to review operations.

55. Thomas was involved in creating sales scripts to guide the sales representatives during telemarketing calls. The sales scripts used by the PLI Sales Floor were largely based on scripts taken from other telemarketing sales floors.

56. Since at least October 2013 and continuing through the commencement of this action, the PLI Sales Floor has marketed the Business Coaching Program for Guidance.

57. The PLI Sales Floor has obtained most of its leads used for its telemarketing activities from Guidance, directly and indirectly though Motek.

58. The PLI Sales Floor has opened several merchant accounts to process its telemarketing sales. PLI Sales Floor's merchant accounts have incurred excessive chargeback rates, and at least one was suspended and later terminated in 2014 for excessive chargebacks.

59. Guidance has assisted the PLI Sales Floor in responding to chargebacks as they occurred by, among other things, providing documents that purport to show consumers using the coaching services.

Defendants' Deceptive Sales Practices

60. The Sales Floors, including the PLI Sales Floor and the Discover Sales Floor, engaged by Guidance to sell the Business Coaching Program have madea number of misrepresentations outlined below to generate sales.

61. Many of the Sales Floors, including the PLI Sales Floor and the Discover Sales Floor, used similar recycled scripts that guide sales representatives during the telemarketing calls when selling the Business Coaching Program.

62. The Sales Floors' sales pitch typically lasts for more than an hour over the course of one or more telemarketing calls. In numerous instances, the initial call is designed for the

Sales Floors' representatives to "probe" consumers' personal financial information and personal goals or hardships ("pains") under the guise of a qualification screening process.

63. Once consumers provide their personal information, they are typically then transferred to, or called later, by different sales representatives who try to "close" the sale. During the "close," the sales representatives typically tell consumers what the cost is to "invest" in the Business Coaching Program, which varied greatly depending in part on the consumer's personal finances. The sales representatives typically encouraged the consumers to use their personal credit cards to pay for the program as part of a so-called "OPM" strategy, specifically, using Other People's Money (e.g., the bank's money).

64. In numerous instances, the sales representatives claimed that the Business Coaching Program was open only to select applicants who qualified to participate. The sales representatives also appealed to the consumer's expressed goals, hardships, and "pains" to pressure the consumer into purchasing the Business Coaching Program.

Misrepresentations about the Purpose of the Call, the Nature of the Program, and The Need for Consumers' Personal Financial Information

65. In numerous instances, the Sales Floors start their sales calls by claiming they are calling as part of the work-at-home product or service that the consumers previously purchased from the lead source and do not promptly and clearly identify themselves or disclose that the purpose of the calls is to sell another product or service.

66. Later, the Sales Floors' representatives tell the consumers that they are calling to screen candidates for an exclusive program in which qualifying participants get specialized assistance from an expert coach.

67. In numerous instances, the Sales Floors' representatives tell consumers that the Business Coaching Program has limited spots, is not available to everyone, and/or that only qualified people can be accepted into the program.

68. The Sales Floors' representations about the limited availability of the Business Coaching Program are false because there were no limits on how many sales of the Business Coaching Program the Sales Floors could make and there are no qualifications for entry into the program other than the consumer's willingness to pay whatever the Sales Floors charge.

69. As part of the purported screening process, the Sales Floors' representatives ask consumers about their financial circumstances, including income, savings, debts, and credit card balances and limits. The Sales Floors' representatives claim they need this information to determine whether the consumer qualifies for a program and/or to develop a business plan for the consumer to reach his or her goals.

70. The Sales Floors' representations about the use of consumers' financial information are false because the Sales Floors do not use the information to assess a consumer's qualifications or develop a business plan. Instead, in numerous instances, the Sales Floors use this information to decide how much to charge consumers for the Business Coaching Program.

Misrepresentations about the Scope and Nature of Products and Services Provided

71. In numerous instances, the Sales Floors' representatives tell consumers that if they purchase the Business Coaching Program, they will receive: (a) specialized one-on-one expert training tailored to the consumers' specific needs or business; (b) access to specialized market research to find profitable products they can sell on eBay or on their own ecommerce websites; (c) specialized assistance to develop ecommerce websites that are highly ranked by

search engines; or (d) marketing techniques that will drive consumers to their ecommerce websites.

72. The Sales Floors' representations about the scope and nature of products and services provided are false.

73. In numerous instances, purchasers do not receive specialized expert training or access to any specialized market research. Instead, in numerous instances, the only training that consumers receive in the Business Coaching Program consists of basic information available for free online, such as how to open an account on eBay or Paypal.

74. In numerous instances, purchasers do not end up with ecommerce websites that are highly ranked by search engines or that generate substantial consumer traffic.

Misrepresentations about Earnings

75. In numerous instances, the Sales Floors encourage consumers to purchase the Business Coaching Program by representing that consumers are likely to earn substantial income from the Business Coaching Program.

76. The Sales Floors' earnings representations, which take many forms, leave consumers with the impression they will be able to recoup the cost of their purchase and earn several thousand dollars a month from the Business Coaching Program.

77. For example, in numerous instances, the Sales Floors' representatives tell consumers that within a number of months, they can earn several thousand dollars a month from the Business Coaching Program.

78. In numerous instances, the Sales Floors' representatives encourage consumers to charge the cost of the Business Coaching Program on their personal credit cards. The Sales

Floors' representatives often tell consumers they will not actually be paying the charges out of their own pocket because they will make enough money from their future businesses to pay the balance plus have money left over as profit.

79. In numerous instances, the Sales Floors' representatives ask consumers about their financial goals and how much they want to earn from their future business. In numerous instances, the Sales Floors' representatives tell consumers that their stated financial goals of several thousand dollars a month are attainable if they participate in the Business Coaching Program. The Sales Floors' representatives also tell consumers that the cost of the Business Coaching Program (which can vary widely but is typically at least several thousand dollars) is an appropriate investment for their stated financial goals.

80. In numerous instances, the Sales Floors' representatives also tell consumers that if they are willing to devote just ten hours (or less) a week on the Business Coaching Program, they will be successful.

81. In numerous instances, the Sales Floors' representatives also tell consumers that other participants in the Business Coaching Program have become "success stories" and/or refer to testimonials provided by Guidance that purport to be from consumers who made money through the Business Coaching Program.

82. In numerous instances, the Sales Floors' representatives also tell consumers that there is no risk of losing money because the company will provide a "warranty" and will continue working with them and/or provide free services if the consumer is not satisfied.

83. These earning claims are false because the overwhelming majority of consumers who purchase the Business Coaching Program do not earn substantial income and/or cannot

recoup the purchase program costs from future business income. In fact, in most instances, consumers who purchase the Business Coaching Program are never able to establish an operating business.

VIOLATIONS OF THE FTC ACT

84. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

85. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

86. As set forth below, Defendants have engaged in violations of Section 5(a) of the FTC Act in connection with the telemarketing and sale of the Business Coaching Program.

Count I
Misrepresentations Regarding Earnings

87. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of the Business Coaching Program, Defendants have represented, directly or indirectly, expressly or by implication, that consumers who purchase and use the Business Coaching Program are likely to earn substantial income, such as several thousand dollars a month.

88. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 87 of this Complaint, consumers who purchased the Business Coaching Program did not earn substantial income, such as several thousand dollars a month, or any income at all.

89. Defendants' representations as set forth in Paragraph 87 of this Complaint are false or misleading or were not substantiated at the time the representations were made.

90. Therefore, Defendants' representations as set forth in Paragraph 87 of this Complaint are false and misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count II
Misrepresentation Regarding Products and Services Provided

91. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of the Business Coaching Program, Defendants have represented, directly or indirectly, expressly or by implication, that the Business Coaching Program:

a. is only open to a select number of qualified participants; or

b. includes specialized one-on-one expert training tailored to the consumers' specific needs or business, access to specialized market research to find profitable products they can sell on eBay or on their own ecommerce websites, specialized assistance to develop ecommerce websites that are highly ranked by search engines, and/or marketing techniques that will drive consumers to their ecommerce websites.

92. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 91 of this Complaint:

a. there are no qualifications for entry into the program other than the consumer's willingness to pay whatever fees are charged; and

b. Defendants did not provide the products and services they represented they would provide, including but not limited to: specialized one-on-one expert training tailored to the consumers' specific needs or business, access to specialized market research to find profitable products to sell on eBay or on ecommerce websites, specialized assistance to develop ecommerce websites that are highly ranked by search engines, and marketing techniques that will drive customer traffic to the consumers' ecommerce websites.

93. Therefore, Defendants' representations as set forth in Paragraph 92 of this Complaint are false and misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count III
Misrepresentation Regarding Need for Financial Information

94. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of the Business Coaching Program, Defendants have represented, directly or indirectly, expressly or by implication, they need consumers' financial information to determine whether consumers are qualified for a program and/or to develop a business plan for consumers to reach their financial goals.

95. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 94 of this Complaint, Defendants do not use consumers' financial information to determine whether consumers are qualified for a program and/or to develop a business plan for consumers to reach their financial goals. Instead, the Defendants use

consumers' financial information to decide how much to charge them for the Business Coaching Program.

96. Therefore, Defendants' representations as set forth in Paragraph 94 of this Complaint are false and misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

97. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. The FTC adopted the original Telemarketing Sales Rule ("TSR") in 1995, extensively amended it in 2003, and amended certain sections thereafter.

98. Defendants are "sellers" or "telemarketers" engaged in "telemarketing" as defined by the TSR, 16 C.F.R. § 310.2(dd), (ff), and (gg).

99. Defendants' goods and services, including the Business Coaching Program, are "Investment Opportunit[ies]" as defined in the TSR, 16 C.F.R. § 310.2(s). The TSR defines an "Investment opportunity" as "anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation." 16 C.F.R. § 310.2(s).

100. The TSR prohibits sellers and telemarketers from "[m]isrepresenting, directly or by implication, in the sale of goods and services . . . [a]ny material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability." 16 C.F.R. § 310.3(a)(2)(vi).

101. The TSR prohibits sellers and telemarketers from "[m]isrepresenting, directly or by implication, in the sale of goods and services . . . [a]ny material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer." 16 C.F.R. § 310.3(a)(2)(iii).

102. The TSR prohibits sellers and telemarketers from "[m]aking a false or misleading statement to induce any person to pay for goods or services. . . ." 16 C.F.R. § 310.3(a)(4).

103. The TSR requires telemarketers to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call: (1) the identity of the seller; (2) that the purpose of the call is to sell goods or services; and (3) the nature of the goods and services. 16 C.F.R. §§ 310.4(d)(1), (2) and (3).

104. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count IV
Misrepresentations of Material Aspects of an Investment Opportunity in Connection with Telemarketing

105. In numerous instances, in connection with telemarketing offers to sell the Business Coaching Program, Defendants have misrepresented, directly or indirectly, expressly or by implication, material aspects of investment opportunities, including, but not limited to, the risk, earnings potential, or profitability of the Business Coaching Program.

106. Defendants' acts or practices, as described in Paragraph 105 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(vi) and (a)(4).

Count V
Misrepresentations Regarding the Performance, Efficacy, Nature or Characteristics of Goods and Services

107. In numerous instances, in connection with telemarketing offers to sell the Business Coaching Program, Defendants have misrepresented, directly or indirectly, expressly or by implication, material aspects of the performance, efficacy, nature, or central characteristics of the Business Coaching Program, such as:

a. consumers who purchase the Business Coaching Program are likely to earn substantial income;

b. is only open to a select number of qualified participants; and

c. includes specialized one-on-one expert training tailored to the consumers' specific needs or business, access to specialized market research to find profitable products they can sell on eBay or on their own ecommerce websites, specialized assistance to develop ecommerce websites that are highly ranked by search engines, and/or marketing techniques that will drive consumers to their ecommerce websites.

108. Defendants' acts or practices, as described in Paragraph 107 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(iii) and (a)(4).

Count VI
Failure to Disclose – Identity, Purpose, Nature of Services

109. In numerous instances, in connection with telemarketing offers to sell the Business Coaching Program, Defendants, directly or indirectly, have failed to disclose promptly and in a clear conspicuous manner to the person receiving the call: (a) the identity of the seller; (b) that the purpose of the call is to sell services; and (c) the nature of those services.

110. Therefore, the Defendants' acts or practices, as described in Paragraph 109 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.4(d)(1), (2), and (3).

CONSUMER INJURY

111. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

112. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten monies, and prejudgment interest, to prevent and remedy any violation of any provision of law enforced by the FTC.

113. Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the TSR, including the rescission or reformation of contracts, the refund of money, the disgorgement of ill-gotten monies, and prejudgment interest.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and the Court's own equitable powers, requests that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act and the TSR by Defendants;

B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the TSR, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten monies, and prejudgment interest; and

C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

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